THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

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WRIT PETITION NO.22154 of 2005

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5th June 2006

Between:

C.S.Ranganatha Rao, S/o. Sri C.R. Subba Rao, 40 years, Ex-Khalasi, O/o. Asst.Divisional Mechanical Engineer (C&W), South Central Railway, Secunderabad Division, Secunderabad.

...PETITIONER

AND

1. The Asst.Divisional Mechanical Engineer (Carriage & Wagon) South Central Railway, Secunderabad Division, Secunderabad.

And three others.

...RESPONDENTS

THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.22154 of 2005

ORDER: (Per the Hon'ble Mr Justice B.Prakash Rao)

Heard both the sides.

At their request, the Writ Petition itself is taken up for disposal at the admission stage.

The petitioner, who is an applicant before the Central Administrative Tribunal ('the Tribunal' for brevity), Hyderabad, files this Writ Petition, *inter alia*, seeking for a mandamus assailing the interlocutory order dated 12.08.2005 in M.A.No.389 of 2005 in O.A.S.R.No.1674 of 2005 filed seeking condonation of delay of three months and eighteen days in filing the application under Section 19 of the Administrative Tribunals Act, 1985, which was rejected.

The main grievance of the petitioner in O.A.S.R. before the Tribunal is in regard to the action taken by the respondents in removing him from service. He assailed the same stating that though he has filed various representations and the appeals; the same were not found favour with. Hence, there has been certain delay. Therefore, taking into consideration the principles and decisions as referred to therein, the Tribunal did not find favour with the reasons given in support of the application. Hence, the Writ Petition.

Having heard the submissions made on either side and on perusal of the material available on record, we are of the opinion that the main O.A. pertains to the very order dated 13.03.2002 with regard to removal of service against which the petitioner filed appeal and review and ultimately, there has been delay in approaching the Tribunal, which is hardly about three and months eighteen days. However, the fact remains that the said order cannot be said as final orders of removal and the merits of which have to be necessarily gone into in the main application. An opportunity should have been provided to the petitioner for condoning the objections raised. It is now well established that the Rules and Procedure should save the parties rather than punish them especially in the proceedings and the orders, which affects their substantial rights. In the circumstances, the petitioner should be given an opportunity.

The Writ Petition is accordingly allowed. M.A.No.389 of 2005 in O.A.S.R.No.1674 of 2005 is allowed and the delay is condoned. The Tribunal shall take up the same and dispose of on merits in accordance with law after giving notice and opportunity to both the sides. No costs.

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(B.PRAKASH RAO, J)

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(RAMESH RANGANATHAN, J)

5th June 2006

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